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NOTICE OF ALLOWANCE AND FEE(S) DUE

4678 7590 01/29/2009

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

EXAMINER

JOHNSON, EDWARD M

ART UNIT

PAPER NUMBER

1793

DATE MAILED: 01/29/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,088	03/11/2004	Brian S. Higgins	7340-012	6044

TITLE OF INVENTION: METHOD FOR IN-FURNACE REGULATION OF SO3 IN CATALYTIC NOX REDUCING SYSTEMS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES NO	\$365 \$1516	\$300	\$0	\$365 \$1816	04/29/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. * THIS **STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO.
10/798,088	03/11/2004	Brian S. Higgins	7340-012	6044

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EXAMINER

JOHNSON, EDWARD M

ART UNIT

PAPER NUMBER

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DATE MAILED: 01/29/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 992 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 992 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability

Application No.

10/798,088

Examiner

Edward M. Johnson

Applicant(s)

HIGGINS, BRIAN S.

Art Unit

1793

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicant's amendment and IDS filed on 12/23/08.
2. ☒ The allowed claim(s) is/are 1-8 and 17-25, which have been renumbered 1-17, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 12/08
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

/Edward M. Johnson/
Primary Examiner
Art Unit: 1793

FORM PTO-1449		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE			ATTY DKT NO. 7340-012		SERIAL NO. 10/798,088	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT					APPLICANT Higgins			
					FILING DATE March 11, 2004		GROUP 1793	
U.S. PATENT DOCUMENTS								
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.	
/EMJ/	A	3,105,540	10/1963	Hardgrove	431	9		
	B	3,528,797	09/1970	Funk, et al.	71	39		
	C	3,565,575	02/1971	Warshaww, et al.	23	2		
	D	3,773,897	11/1973	Fields, et al.	423	235		
	E	3,847,564	11/1974	Marion et al.	48	95		
	F	3,860,384	01/1975	Vulliet et al.	431	4		
	G	3,900,554	08/1975	Lyon	423	235		
	H	3,970,739	07/1976	Shiraishi et al.	423	23S		
	I	4,021,188	05/1977	Yamagishi et al.	431	158		
/EMJ/	J	4,029,752	06/1997	Cahn	423	563		
FOREIGN PATENT DOCUMENTS								
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION	
							YES	NO
OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)								
EXAMINER /Edward M. Johnson/ (01/23/2009)					DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.								

(Form PTO-1449)

FORM PTO-1449		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		ATTY DKT NO. 7340-012		SERIAL NO. 10/798,088	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICANT Higgins		FILING DATE March 11, 2004	
						GROUP 1793	
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.
/EMJ/	X	4,381,718	05/1993	Carver et al.	110	347	
	Y	4,469,050	09/1984	Korenberg	122	4D	
	Z	4,502,633	03/1985	Saxon	239	422	
	AA	4,504,211	03/1985	Beardmore	44	604	
	BB	4,506,608	03/1985	Strohmeyer, Jr.	110	245	
	CC	4,507,075	03/1985	Buss et al.	421	115	
	DD	4,507,269	03/1985	Dean et al.	423	235	
	EE	4,565,137	01/1986	Wright	110	264	
	FF	4,584,948	04/1986	Syred et al.	110	264	
/EMJ/	GG	4,624,840	11/1986	Dean et al.	423	235	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION
							YES NO
OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)							
EXAMINER /Edward M. Johnson/ (01/23/2009)				DATE CONSIDERED			
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				FILING DATE March 11, 2004	GROUP 1793

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.
/EMJ/	HH	4,627,965	12/1986	Hegemann et al.	423	242	
	II	4,672,900	06/1987	Santalla et al.	431	9	
	JJ	4,704,084	11/1987	Liu et al.	431	7	
	KK	4,751,065	06/1998	Bowers	423	235	
	LL	4,777,024	10/1988	Epperly et al.	423	235	
	MM	4,780,289	10/1988	Epperly et al.	223	235	
	NN	4,809,910	09/1998	Svendssen	110	235	
	OO	4,824,441	04/1989	Kindig	44	604	
	PP	4,873,930	10/1989	Egense et al.	110	345	
↓	QQ	4,962,711	10/1990	Yamauchi et al.	110	347	
	RR	4,978,514	12/1990	Hofmann et al.	423	235	
/EMJ/	SS	5,017,347	05/1991	Epperly et al.	423	235	

FOREIGN PATENT DOCUMENTS								
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION	
							YES	NO

OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)		

EXAMINER /Edward M. Johnson/ (01/23/2009)	DATE CONSIDERED
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					FILING DATE March 11, 2004			
U.S. PATENT DOCUMENTS								
EXAMINER INITIAL	DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.		
↓ ✓	TT	5,032,154	07/1991	Wright	422	109		
	UU	5,048,432	09/1991	Hofmann et al.	110	345		
	VV	5,052,921	10/1991	Hemsath	423	121		
	WW	5,105,747	04/1992	Khinkis et al.	110	345		
	XX	5,139,754	08/1992	Luftglass et al.	423	235		
	YY	5,146,858	09/1992	Tokuda et al.	110	261		
	ZZ	5,240,404	08/1993	Hemsath et al.	431	9		
	AAA	5,261,602	11/1993	Brent et al.	239	132.3		
BBB	5,286,467	02/1994	Sun et al.	423	239.1			
/EMJ/	CCC	5,310,334	05/1994	Spiros	431	5		
FOREIGN PATENT DOCUMENTS								
	DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL	TRANSLATION		
						YES	NO	
OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)								
EXAMINER				DATE CONSIDERED				
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				FILING DATE March 11, 2004			
U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.
/EMJ/	DDD	5,336,081	08/1994	Saito et al.	431	190	
	EEE	5,345,883	09/1994	Panos	110	345	
	FFF	5,536,482	07/1996	Diep et al.	423	235	
	GGG	5,489,419	02/1996	Diep et al.	423	235	
	HHH	5,585,081	12/1996	Chu et al.	423	239.1	
	III	5,690,039	11/1997	Monroe et al.	110	264	
	JJJ	5,707,596	01/1998	Lewandowski et al.	423	235	
	KKK	5,728,357	03/1998	von Harpe	423	239.1	
	LLL	5,853,684	12/1998	Fang et al.	423	244.1	
	MMM	5,854,173	12/1998	Chang et al.	502	417	
	NNN	6,019,068	02/2000	Tsuo et al.	122	4D	
/EMJ/	OOO	6,042,371	03/2000	Mitani et al.	431	215	
FOREIGN PATENT DOCUMENTS							
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION
							YES NO
OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)							
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				FILING DATE March 11, 2004	GROUP 1793	

U.S. PATENT DOCUMENTS							
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.
/EMJ/	PPP	6,109,911	08/2000	Tamminen et al.	431	4	
	QQQ	6,190,628	02/2001	Carter	422	168	
	RRR	6,213,032	04/2001	Breen et al.	110	345	
	SSS	6,230,664	05/2001	Janka et al.	112	4D	
	TTT	6,280,695	08/2001	Lissianski et al.	423	239.1	
	UUU	6,357,367	03/2002	Breen et al.	110	345	
	VVV	6,398,039	06/2002	Xue et al.	210	504	
	WWW	6,485,289	11/2002	Kelly et al.	431	4	
/EMJ/	XXX	6,5427,828	03/2003	Flippo et al.	95	54	

FOREIGN PATENT DOCUMENTS								
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION	
							YES	NO

OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)		

EXAMINER /Edward M. Johnson/ (01/23/2009)	DATE CONSIDERED
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U.S. PATENT DOCUMENTS								
EXAMINER INITIAL		DOCUMENT NO.	DATE	NAME	CL.	SUBCL.	FILING DATE IF APPROP.	
/EMJ/	JJJJ	2005/000901	01/2005	Campbell et al.	210	660		
	KKKK	2005/0002841	01/2005	Moberg	423	235		
	LLLL	2005/0013755	01/2005	Higgins	423	235		
	MMMM	4,325,924	04/1982	Arand et al	423	235		
	NNNN	4,842,834	06/1989	Burton	423	235		
	OOOO	4,915,036	04/1990	DeVita	110	215		
	PPPP	4,927,612	05/1990	Bowers	423	235		
	QQQQ	4,962,711	10/1990	Yamauchi et al.	110	347		
	RRRR	4,985,218	01/1991	DeVita	423	235		
	SSSS	4,992,249	02/1991	Bowers	423	235		
	TTTT	5,017,347	05/1991	Epperly et al.	423	235		
	UUUU	5,057,293	05/1990	Epperly et al.	423	235		
	VVVV	5,342,592	08/1994	Peter-Hoblyn, et al.	423	235		
	WWWW	5,809,910	09/1998	Svendssen	110	235		
/EMJ/	XXXX	6,315,551	11/2001	Salzieder et al.	431	183		
FOREIGN PATENT DOCUMENTS								
		DOCUMENT NO.	DATE	COUNTRY	CL.	SUBCL.	TRANSLATION	
							YES	NO
/EMJ/	YYYY	DE28 37 156 A1	03/1979	Germany (see US 5,146,858)				
/EMJ/	ZZZZ	WO 87/03507A1	06/1987	WIPO			X	
/EMJ/	AAAA A	WO05/079305 A3	02/2005	WIPO			X	
/EMJ/	BBBB B	EP 0287224 A2	10/1988	EPO			X	
/EMJ/	CCCC C	JP2003021322	01/2003	Japan (English abstract only)				
OTHER DOCUMENTS (Incl. Author, Title, Date, Pertinent pages, etc.)								
EXAMINER /Edward M. Johnson/ (01/23/2009)					DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.								

[illegible]



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/797,513

03/10/2004

Brian S. Higgins

7340-011

4226

4678 7590 09/02/2008
MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

09/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,513

Applicant(s)

HIGGINS, BRIAN S.

Examiner

Sarah Suereth

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Receipt of applicant's amendment filed on 03/17/08 is acknowledged..

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/17/08 has been entered.

Terminal Disclaimer

3. The terminal disclaimer filed on 3/17/08 has been reviewed and is accepted.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 17-34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 17, line 5 states, "determining if the SCR system is to be by-passed". However, this is a mental step which does not produce a

concrete or tangible result, and thus is nonstatutory. A similar limitation is also in claim 25.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 17-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 17, line 5 states, "determining if the SCR system is to be by-passed". A similar limitation is also in claim 25.

8. However, the specification does not describe how this step is performed.
9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 17-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17, line 5 states, "determining if the SCR system is to be by-passed". A similar limitation is also in claim 25.

11. However, it is unclear exactly how this step is performed. For example, it is unclear whether a user or a controller performs the step, or what criteria is used to make a determination.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 17-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over **U.S. Patent No. 4,375,949 to Salooja** ("Salooja") in view of **U.S. Patent No. 4,029,752 to Cahn** ("Cahn"), and **applicant's admitted prior art**, and further in view of **U.S. Patent No. 4,196,057 to May** ("May") (previously cited) and **Altman (5,011,516)**.

Salooja discloses in the specification and figures 1-10 an invention in the same field of endeavor as applicant's invention and similar to that described in applicant's claims 17-34.

In particular, in regard to at least claim 17, Salooja discloses a method of reducing the acidity (each of nitrogen oxides and sulfur trioxides, see cols. 5-7) comprising the steps of:

c) partially combusting the fuel in a first stage to create a reducing environment in situ (see at least col. 1, lines 50-54);

d) maintaining the reducing environment for a sufficient time period such that reducible acids are reduced to a predetermined level to achieve a desirable acidity concentration in the flue gas (see at least col. 1, lines 54-59 and col. 7 lines 5-20 describing that the nitrogen oxides and sulfur tri-oxides are controlled to desired/predetermined levels);

e) combusting the remainder of the fuel and combustion intermediates in a second stage with oxidizing environment; thereby decreased the acidity of the flue gas by reducing the acid concentration of the gas (see at least col. 1, lines 60-63 and lines 29-33).

In regard to the limitation the reducible acids are reduced "by electron addition", while Salooja does disclose that the nitrogen oxides and sulfur trioxides are reduced, the reference does not appear to go into further detail as to the mechanisms of the chemical reduction, namely "by electron addition."

Cahn teaches a method of reducing sulfur oxides that is considered to be in the same field of endeavor as both applicant's invention and Salooja. Cahn describes that sulfur oxides in a process gas stream are reduced by reaction with ammonia (i.e. NH_3) as a reducing agent (see at least col. 7, lines 48-52). Cahn clearly provides that sulfur trioxide is reduced in the same manner as the described processes for sulfur dioxide (see at least col. 7, lines 34-38). The examiner notes that at least ammonia (NH_3) is considered to be the type of reducing radical described in applicant's specification (see specification p. 9, line 14 lists NH_3). Further, the examiner also notes that Cahn also suggests that other reducing agents such as H_2 , CO , and CH_4 (also listed in applicant's

specification) are recognized in the art as reducing radicals creating a reducing environment (see Cahn, col. 7, lines 65-68). This describes process of employing either ammonia or other above noted agent to result in the reduction of sulfur trioxide (a reducible acid) is considered to suggest the reduction by electron addition described in applicant's specification and claimed in claim 17.

Returning to Salooja, while this reference provides only some detail of the reducing of sulfur trioxides through the practice of the described method, there is clear suggestion that the reduction of sulfur trioxides is recognized in the art. Accordingly, a person of ordinary skill in the art at the time the invention was made would desirably modify the process in Salooja to incorporate the reduction by electron addition suggested by Cahn to desirably produce a gas stream that has "little or no" sulfur trioxide (see at least Cahn, col. 8, lines 41-46).

Regarding the limitations of determining if the SCR system is to be bypassed and then bypassing the SCR if determined to be necessary, applicant discloses in the specification that "an SCR is often only intended to be used for six months per year", and "are bypassed during the winter". This is regarded as an admission of prior art.

Salooja, Cahn, and applicant's admitted prior art teach substantially all of the limitations of the methods recited in claims 17-23 and 25-31, with exception of the steps of adjusting the reducing environment to lower the flue acid gas dewpoint (claims 17 and 23), improving ESP function (claims 17 and 25), and measuring acid dewpoint (claim 23). These additional steps have not been identified in Salooja, Cahn, and applicant's admitted prior art.

However, In regard to claims 17 and 25, the acid of concentration of the flue gas is directly related to the acid dew point temperature of the flue gas. This is expressly noted by applicant in applicant's description of the prior art, namely "...as the SO₃ concentration increases, the acid dew point temperature of the flue gas increases." (see applicant's specification, p. 1, lines 16-18). To further support this assertion the examiner also points to May. May discloses a method which provides that "[m]easurement of dew point enables a semi-quantitative determination of the sulfur trioxide concentration in the exhaust or flue gas" (see May, col. 5, lines 30-32 and 38-42). Accordingly, a person of ordinary skill in the art would understand that reduction of the acid concentration of the flue gas necessarily results in the lowering of the acid dew point level of the flue gas. As noted above, Salooja provides for the reduction of sulfur oxides from the effluent of flue gas of a furnace to a desired level (see at least col. 1, lines 54-59 and cols. 5-7). Therefore, a person of ordinary skill in the art would reasonably understand that obtaining the reduction target of the oxides in the flue gas as specified in Salooja would necessarily result in a corresponding desired dew point level (again see at least May, col. 5, lines 38-42).

Also in regard to claims 17 and 25, it is unclear whether the Salooja apparatus includes an ESP device. However, Altman teaches that fly ash is conventionally removed from combustion gases by electrostatic precipitation (col. 1, lines 7-10). Altman also teaches that the concentration of sulfur trioxide must be controlled to optimize the performance of the ESP filter (col. 1, lines 17-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Salooja apparatus to include the ESP device, as Altman teaches they are conventionally used to control fly ash (col. 1, lines 7-10).

Accordingly, a person of ordinary skill in the art would understand that reduction of the acid concentration of the flue gas necessarily results in optimizing the performance of an ESP device. As noted above, Salooja provides for the reduction of sulfur oxides from the effluent of flue gas of a furnace to a desired level (see at least col. 1, lines 54-59 and cols. 5-7). Therefore, a person of ordinary skill in the art would reasonably understand that obtaining the reduction target of the oxides in the flue gas as specified in Salooja would necessarily result in a corresponding improved performance of the ESP device (again see at least Altman, col. 1, lines 17-21).

In regard to at least claim 18 and 19, Salooja describes that a catalytic burner is supplied at least in the first stage that produces lower NO_x production than conventional combustion systems (see at least col. 2, lines 7-12, col. 6, line 67 through col. 7, line 4 and col. 4, lines 31-47) and thus reasonably suggests micro-staging through the use of low-NO_x burners.

In further regard to claims 18 and 19, as noted above, while the examiner considers that the operation of the catalytic burners suggests the recited micro-staging using low NO_x burners, even if this is not a proper understanding, the examiner notes that applicant admits that the use of micro-staging using low-NO_x burners to reduce emissions in combustion furnaces is known in the art (see admitted prior art of page 5,

lines 4-18 of applications' specification). Accordingly, even if the operation of the catalytic burners of Salooja are not properly considered to be applicant's recited micro-staging using low NOx burners, a person of ordinary skill in the art would desirably seek to incorporate micro-staging using low NOx burners in the process of Salooja in order to desirably aid in reducing NOx emissions (see admitted prior art of p. 5, lines 4-18 of applications' specification).

In regard to at least claims 20-24 and 26-31, applicant also admits that the use of macro-staging using over-fired air and used in combination with micro-staging using low NOx burners is known in the art (see admitted prior art of page 5, line 19 through page 6, line 5 of applications' specification). Accordingly, a person of ordinary skill in the art would seek to employ macro-staging using over-fired air in a combustion stage and/or in combination of micro-staging using low NOx burners to desirably achieve NOx emissions reduction (see admitted prior art of page 5, line 19 through page 6, line 5 of applications' specification). Regarding claim 24, Salooja teaches burning a "carbonaceous fuel", which is considered to suggest coal.

Regarding claims 33 and 34, Salooja teaches reducing the concentration of sulfur trioxide to 18 ppm (col. 7, line 17).

In regard to claim 25, this claim includes limitations similar to that of claim 17 with the additional method step of "measuring the acid dewpoint of the flue gas." Salooja possibly does not expressly disclose actively measuring the acid dewpoint of the flue gas.

However, May, as previously noted, clearly provides that the dew point of the exhaust gas is measured to determine a concentration of sulfur trioxide (see May, col. 5, lines 30-32). Further, May provides that the measurement of the dew point also allows for determination of "cold end" corrosion locations (May, col. 5, lines 32-34) and further that the inherent corrosion rate measurement that arises from the dewpoint measurement "indicates the degree of inhibition of an additive such as magnesium and the actual condition at the surface." (May, col. 5, lines 34-37).

Accordingly, a person of ordinary skill in the art would desirably modify the method of Salooja to incorporate measuring the acid dewpoint of the flue gas as taught in May to determine the level of corrosion that results from the additives in the flue gas (see May, col. 5, lines 30-37).

Response to Arguments

14. Applicant's arguments with respect to claims 17-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571)272-9061. The examiner can normally be reached on Mondays & Tuesdays 8:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven McAllister, can be reached (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah Suereth/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749